Supreme Court, U.S.
FILED
JUN 30 2006
OFFICE OF THE CLERK

NO 05-1381

IN THE SUPREME COURT OF THE UNITED STATES

PATRICK JAY CONELY
PETITIONER

v.

MICHIGAN,
RESPONDENT

PETITIONER, PATRICK JAY CONELY'S SUPPLEMENTAL BRIEF

Patrick Jay Conely
Citizen of the United States
in propia persona
c/o 4961 Walsh Drive
P.O. BOX 361
Brighton, Michigan, in the United States [48116]
Petitioner
(810) 227-1298

To the Honorable Justices of the Supreme Court of the United States.

Whereas in his Supplemental Brief, to the Supreme Court of the United States Patrick Jay Conely, natural Citizen of the United States, Petitioner in this cause of action respectfully presents his Supplemental Brief, and submit the following reasons why his prayer for writ of State Certiorari should be granted:

Patrick Jay Conely, Petitioner, Citizen with his private domicile in the sovereign United States re-states his plea to the Constitution of the United States in Bar of the action, notwithstanding which the court and the justices of the United States Supreme Court gives judgment against him in the particular matters now before the Court of the Union of the United States saying "the lawful demand of one's rights" jus prosequendi in judicio quod alicui debetur.

That there can be "a case in law and equity". Arising under the Constitution to which the judicial power does extend arising under section 8 of Article 1 of the Constitution of the United States and under section 5 of the Fourteenth Amendment is established [p]ursant to the affirmative powers of congress; and further says the jurisdiction conferred is within the power of Congress, the limitations of the judicial power, as established by the Constitution of the United States.

Pursuant to the positive "laws of the United States under the Constitution of the United States, and moves this court under 1 U.S.C. § 204 (a) "prima facie" evidence "legal evidence of laws," § 112 – Statutes at Large are "legal evidence" of the laws contained therein and are accepted as proof of those laws in any court of the United States. **Bear v. United States, 611 F. Supp. 589, (1985, D.C. Neb.);** 1 U.S.C. § 110; Saving clause of Revised Statutes; 1 U.S.C. § 111 – Repeals as evidence of prior effectiveness.

Petitioner, Patrick, Jay Conely, herein incorporates a petition (Motion) to allow additional pages under Rule 33 (g) (iv) as this is most important to explain to the court and justices of this court and pleads to;

By the 32d section of the act to establish the judicial courts of the United States it is provided

"That no summons, writ, return, process, judgment or other proceedings in civil causes in any of the courts of the United States shall be abated, arrested, quashed or reversed for any defect or want of form, but the said courts, respectively, shall proceed and give judgment according as the right of the cause and matter in law shall appear to them, without regarding any imperfections, defects or wants of form in such writ, declaration, or other pleading, return, process, judgment or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially set down and express, together with his demurrer, as the cause thereof." In view of **Roach v. Hulings, 41 U.S. (16 Pet.) 319 (1842) in this action at law as a case in actual controversy.**

The petitioner, Patrick Jay Conely is not a licensed attorney and should not be held to the same standards as a licensed attorney in this action on behalf of himself.

JURISDICTIONAL STATEMENT

Section 1 of article 3 of the Constitution provides:

"The judicial power of the United States shall be vested in the Supreme Court and in such inferior courts as the Congress may from time to time, ordain and establish
Section 2 of the same article provides:"

"**The judicial power shall extend to all cases, in law and equity,** arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects. Under the Constitution of the United States, the exercise of judicial power is limited to cases and controversies."

"A case or controversy, in order that the judicial power of the United States may be exercised thereon, implies the existence of present or possible adverse parties whose contentions are submitted to the court for adjudication." **[Chisholm v. Georgia, 2 Dall. 431].**

"The exercise of judicial power under Art. III of the Constitution depends on the existence of a case or controversy," that Patrick Jay Conely, Petitioner has presented to this court

sued in his own name with the "pursuance of an honest and actual antagonistic assertion of his rights against the Respondents, The People of the State of Michigan, The State of Michigan/Michigan as alleged in his Petition for writ of certiorari **["Muskrat v. United States, 219 U.S. 346, 359 (1911)"]** of his valuable legal rights as a natural Citizen of the United States.

Petitioner raised several issues in the Questions presented; "[w]hen an issue or claim is properly before the court, the court is not limited to the particular legal theories advanced by the parties, but rather retains the independent power to identify and apply the proper construction of governing law, **[Kamen v. Kemper Financial Services, Inc., 500 U.S. 90, 99 (1991)]**, even where the proper construction is that a law does not govern because it is not in force . "The judicial Power" extends to cases "arising under . . . the Laws of the United States," Art. III, § 2, cl. 1, and a court properly asked to construe a law has the constitutional power to determine whether the law exists." **[Cf. Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 405 (1821)]**("[I]f, in any controversy depending in a court, the cause should depend on the validity of such a law, that would be a case arising under the constitution, to which the judicial power of the United States would extend") (Marshall, C.J.).

Pursuant to the contract clause, Petitioner, Patrick Jay Conely, Citizen pleads to the contract clause the Petitioner cites **New Jersey v Wilson 11 US 164** that The People of the

State of Michigan/The State of Michigan violated the contract clause of the Constitution of the United States which prohibits a state from passing any law impairing the obligation of contracts.

Petitioner argues that the Constitution of the United States is a contract (agreement) between the people of the United States and the government of the United States that was signed and agreed to. **See the Bill of Rights and the Articles.**

The Constitution of the United States declares that no state shall "pass any bill of attainder, ex post factor law, or law impairing the obligation of contracts." Petitioner, Patrick Jay Conely challenges the three Statutes of the State of Michigan on the misapplication and violation of the laws and the Constitution of the United States; First– M.C.L. 324.11512 (1); M.S.A. 13A. 11512 (1), [324.115121], MISDEMEANOR: $1,000.00 fine (see M.C.L. 324.11549); Second – M.C.L. 324.11509 (1); M.S.A. 11509 (1), [324.115091], MISDEMEANOR: $1,000.00 fine [see M.C.L. 324.11549; Third – contrary to M.C.L. 324.11512 (1); M.S.A. 13A. 11512 (2),[324.115122] MISDEMEANOR: $1,000.00 fine [see 324.11549].

Plaintiffs further argue in the case of **Fletcher v Peck, 10 US 87 (1810)**, it was decided in this Court on Solemn argument and much deliberation that his provision of the Constitution extends to contracts to which a state is a party, as

well as to contracts between individuals. The question then is narrowed to the inquiry whether in the case stated, a contract existed and whether that contract is violated by the act of 1804.

QUESTIONS PRESENTED IN PETITIONER'S WRIT OF CERTIORARI

I - Has the State of Michigan meet the burden of proof to control the private property of Patrick Jay Conely?

II – Is Patrick Jay Conely grandfathered in his right to operate a salvage operation?

III – Are the Statutes of the State of Michigan as most defined in Count I, II and III of the criminal complaint taken in the name of The people of the State of Michigan, the State of Michigan ex-post facto to the Constitution of the United States?

IV Was Patrick Jay Conely's Fifth and Fourteenth Amendment Rights violated when The People of the State of Michigan, the State of Michigan failed to apprise Mr. Conely of the statutes defined in Counts I, II and III prior to filing the State of Michigan criminal complaint No. 01-5883 SM.

PARTIES TO THE PROCEEDINGS

Petitioner

This proceeding in the Supreme Court of the United States involves a Petition for Writ of Certiorari to the Michigan Supreme Court.

The party is the Petitioner, Patrick Jay Conely, c/o 4961 Walsh Drive, Brighton, P.O. BOX 361, Michigan, in the United States [48116] (810) 227-1298. Petitioner, Patrick Jay Conely in propia persona.

Under Rule 29 (4) the Solicitor General of the United States of America is served a copy of the petition for Writ of Certiorari, at the Department of Justice, 10th and Constitutional Ave., N.W., Washington in the city of Washington, in the district of Columbia the seat of the government of the United States.

The questions raised by the petitioner, involve questions of the constitutionally and application of the Statutes of the State of Michigan, in the State, in this State referring to The State of Michigan Governmental actions in Michigan and the Constitution and the laws of the United States, Articles and Amendments.

The Solicitor General of the United States was served a copy of the statement by the Supreme Court of the United States that the above entitled action was docked.

RESPONDENTS

The State of Michigan/Michigan is named as the respondent in this action before the Supreme Court of the United States as the moving party in the action in the State of Michigan 53rd. District Court.

The State of Michigan/ Michigan has a regular place of business at the ROMNEY BUILDING, 111 SOUTH CAPITAL AVENUE, LANSING, MICHIGAN.

The Governor of the State of Michigan/Michigan, Jennifer M. Granholn has a regular place of business at the ROMNEY BUILDING, 111 SOUTH CAPITAL AVENUE, LANSING, MICHIGAN.

Respondent, Michael A. Cox, Attorney General for the State of Michigan/ Michigan is the Chief Prosecuting Attorney for the State of Michigan/Michigan, in the State, in this State. Michael A. Cox has a regular place of business at the Law building, 525 Ottawa, Lansing, Michigan state/ State of Michigan.

CONSTITUTIONAL PROVISIONS STATUTES, RULES AND TREATIES INVOLVED

The constitution of the United States, as amended of the original Constitution of 1776, Fifth and Fourteenth amendment of the Bill of Rights of the Congress of the United States of Article the fifth; the Fourteenth Amendment to the Constitution of the United States for the original State of the Union of the United States; Article III § 2 of the Constitution of the United States; Article IV § 1 of the Constitution of the United States;

41 Cong. Rec. 2752; the Buck-Act 4 U.S.C. §§ 105-110.

This Supplemental Brief for the Petitioner is filed in good faith by the petitioner and requests procedural due process pursuant the Fifth and Fourteenth Amendment of the alleged deprivation of liberty and property as most respectfully presented in his writ of certiorari.

In controversy are the Three Statutes of the State of Michigan and the application of these Statutes to Patrick Jay Conely, Citizen, Petitioner in this particular action before this court.

The Petitioner respectfully request the justices of this court to adjudicate the actual dispute between the parties, the petitioner, Patrick Jay Conely and The State of Michigan/Michigan as an actual case in controversy.

TABLE OF CONTENTS

STATEMENT OF JURISDICTION ..... iv.

QUESTIONS PRESENTED ..... vi.-vii..

LIST OF PARTIES TO THE PROCEEDINGS ..... vii.

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED ..... ix.

TABLE OF CONTENTS ..... xi.

TABLE OF AUTHORITIES ..... xii-xvii.

REQUEST FOR RELIEF 15, 16

APPENDIX - D - ..... D-1 through D-6

ADDENDUM - A - ..... A-1 through 22

ADDENDUM - B - ..... B-1 through B-2

TABLE OF AUTHORITIES

CASES	PAGE NUMBERS
Alden v. Main, 527 U.S. 706 (1999)	11
Anderson v. Creighton, 483 U.S. 635 at 639 (1987)	7
Bear v. United States, 611 F. Supp. 589, (1985, D.C. Neb.)	iii.
Bradstreet v. Thomas, 37 U.S. 12Pet.) 174 (1838)	10
Bunting v. Mellen, 541 U.S. 1019 (2004)	3
Chisholm v. Georgia, 2 Dall. 431 (1793)	iv
Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 405 (1821)	v, 8
Crawford v. Washington 541 U.S. 36 (2004)	10
Douglas v. New York, N. H. & H. R. Co., 279 U.S. 377,(1929)	12
Ex-parte McCardle, 7 Wall, 506 at 512 (1868)	4
Fletcher v Peck, 10 US 87 (1810)	vi

FW/PBS, Inc. v. Dallas,
493 U.S. 215, 231 (1990) 9

Gibson v. Berryhill,
[421 U.S. 47] 411 U.S. 564, 579 (1973) 12

Gladstone, Realtors v. Village of Bellwood,
441 U.S. 91, 115, n. 31 (1979) 9

Gregory v. Ashcroft,
501 U.S. 452, 501 U.S. 472 (1991) 13

Howlett v. Rose,
496 U.S. 356, 369 (1990) 12

In. Re. Debs,
158 U.S. 564 (1895) 14

In re Murchison,
349 U.S. 133, 136 (1955) 12, 13

Joseph v. United States Civil Service Com.,
180 App D.C. 281, 554 F2D. 1140 14

Kamen v. Kemper Financial Services, Inc.,
500 U.S. 90, 99 (1991) ..... v, 1

Lilly v. Virginia,
527 U.S. at 140-143 (1999) 10

Lujan v. Defenders of Wildlife,
504 U.S. 555, 561 (1992) 9

Mitchell v. Forsyth,
472 U.S. 511 at 528 (1985) 7

Muskrat v. United States,
219 U.S. 346, 359 (1911) iv

New Jersey v Wilson,
11 US 164 (1812) v

North Carolina v. Rice,
404 U.S. 244, 246 (1971) 8

Oklahoma Tax Comm'n., v. United States,
319 U.S. 598 (1943) 4

Preiser v. Newkirk,
422 U.S. 395 (1975) 11

Railroad Company v. Alabama,
101 U.S. 832 (1879) 8

Railroad Co. v. Tennessee,
101 U.S. 337 (1879) 8

Republican Party of Minnesota v. White,
536 U.S. 765 (2002) 13

Richards v. United States,
144 U.S. 263 (1892) 2

Roach v. Hulings,
41 U.S. (16 Pet.) 319 (1842) ..... iii.

Roe v. Wade,
410 U.S. [113,] 125 [(1973)];
[422 U.S. 402] 7

Rudimentary due-process at
422 U.S. 403 (1975) Preiser v.
Newkirk, 422 U.S. 395 11

SEC v. Medical Comm. for Human Rights,
404 U.S. 403 (1972) 7

Southern Pacific Terminal Co. v. ICC,
219 U.S. 498 at 515 (1911) 8

Stephan v. United States,
319 U.S. 423 at 426 (1943) 4

Thomas vs. Washington Gas Light Co.,
448 U.S. 706 (1999) 6

Tiger vs. Western Investment Co.,
221 U.S. 286 (1911) 4

Tumey v. Ohio,
273 U.S. 510, 532 (1927) 13

United States v. Welden,
377 U.S. 95 (1964) at 122 5

United States v. Lee,
106 U.S. 196 (1892) 8, 11

United States v. Lee; Kaufman v. Lee,
106 U.S. 196; 1 S. Ct. 240;
27 L. Ed. 171 (1882) 7

United Public Workers v. Mitchell,
330 U.S. 75, 91 L. Ed. 517 (1947) 14

United States v. Morgan,
313 U.S. 409, 421 (1941) 13

United States v. Munsingwear, Inc.,
340 U.S. 36 (1950) 7

Warner v. Goltra,
293 U.S. 155 at 156 (1934) 5

Warth v. Seldin,
422 U.S. at 501 (1975) 9

White v. Illinois,
502 U.S. 346 at 366 (1992) 11

Wilson v. Layne,
526 U.S. 603 (1999) at 526 U.S. 606 3

Withrow v. Larkin,
421 U.S. 35 (1975) 12, 13

The Constitution of the United States ..... ii, iv, v, vi, ix, 1, 3, 4, 11, 12.,

Article 1 ..... ii.,

Article 1 § 9 ..... 4.,

Article III ..... v., ix., 1., 8., 9.,

Section 1 ..... iv.

Article IV § 1 ..... ix.,

Article IV § 2 ..... 12.,

1 U.S.C. §204 ..... iii.,

4 U.S.C. §§ 105-110 ..... ix.,

41 Cong. Rec. 2752

Fifth Amendment ..... vii., ix., 2.,

Ninth Amendment 14.,

Tenth Amendment 14.,

Fourteenth Amendment ..... ii., ix.,

5. U.S. Statutes at Large 44 4

5 U.S. Statutes at Large 59 4

5 U.S. Statutes at Large 144 4

Northwest Ordinance 1787 4

Enabling Acts 4

Doctrine of Equal Footing 3., 4

Constitution of the State of Michigan
1963 4

Michigan Compiled laws 7

State of Michigan Statutes
M.C.L. 324.11549 2

M.C.L. 324.11549 ..... 2.,3

M.C.L. 324.11549 ..... 3.,

Rules of the Supreme Court Rule 15 ..... 1.,

Rules of the Supreme Court Rule 29 (4) ..... vii.,

Rules of the Supreme Court Rule 33 (g)(iv) .. 14

Title 28 U.S.C. § 1738 6

Appendix - D-

Addendum - A -

Addendum - B-

Michigan Statutes Count I M.C.L. 324.11512 (1); M.S.A. 13A. 11512 (1), [324.115121], MISDEMEANOR: $1,000.00 fine (see M.C.L. 324.11549)

Count II M.C.L. 324.11509 (1); M.S.A. 11509 (1), [324.115091], MISDEMEANOR: $1,000.00 fine [see M.C.L. 324.11549

Count III contrary to M.C.L. 324.11512 (1); M.S.A. 13A. 11512 (2),[324.115122] MISDEMEANOR

Now comes Patrick Jay Conely, Citizen, Petitioner and moves by and through his Supplemental Brief pursuant Rule 15 of the Rules of the Supreme Court of the United States and clarifies the questions and issues raised in his petition for writ of certiorari. The court has before it an Article III case and/or controversy. A court properly presented with an issue is not limited to the particular legal theories advanced by the parties, retains the independent power to identify and apply the proper construction of governing law; **Kamen v. Kemper Financial Services, Inc., 500 U.S. 90-99.**

Petitioner raised the following arguments, meritorious defenses and the alleged violations of the positive laws the articles and amendment of the Constitution of the United States as the supreme law of this nation, of which he is a Citizen under the jurisdiction of this court.

At issue are the three statutes of the State of Michigan, enforced in Michigan in the United States on sovereign soil of the United States as a case in conroversy.

The first issue to be considered is jurisdiction and whether the alleged violation occurred in Livingston County, Michigan.

This question was settled by the Order of the Livingston Circuit Court by the Honorable Circuit Judge Daniel A. Burress at the Appendix – D-6 at paragraph 2 "There was no evidence presented at trial relating to November 8, 2001, the date alleged in the Complaint. Nor is there a finding as to the date by the

trial court. The evidence, viewed in a light most favorable to the prosecution, does not support a conviction for the acts occurring November 8, 2001." If petitioner's sufficiency-of-the-evidence is valid, (No evidence presented at trial in the State of Michigan 53rd District Court) retrial is barred pursuant to the **Double Jeopardy Clause,** fifth amendment to the Constitution of the United States. See **Richards v. United States, 144 U.S. 263 (1892) at 144 U.S. 317.**

The court "Accordingly, the decision of the trial court is REVERSED.

Herein attached to this Supplement Brief with the State of Michigan criminal complaint out of the State of Michigan 53rd District Count in the fiction, Legislative creation under the 1963 Constitution without boundaries.

This in itself has failed the test of "prima-facie" evidence required to charge Patrick Jay Conely under **STATE OF MICHIGAN STATUTES**

Count I - - - SOLID WASTE - - - DISPOSAL
OF REFUSE AT NON-LICENSED
FACILITY did dispose of refuse at a place
other that a disposal area licensed under
the Solid Waste Management Part;
contrary to M.C.L. 324.11512 (1);
M.S.A. 13A. 11512 (1), [324.115121],
MISDEMEANOR: $1,000.00 fine
(see M.C.L. 324.11549)

Count II - - - SOLID WASTE - - -

ESTABLISHING A DISPOSAL AREA WITHOUT A PERMIT did establish a disposal area without first obtaining a construction permit from Department of Natural Resources; contrary to M.C.L. 324.11509 (1); M.S.A. 11509 (1), [324.115091], MISDEMEANOR: $1,000.00 fine [see M.C.L. 324.11549

Count III - - - SOLID WASTE - - - OPERATING DISPOSAL AREA WITHOUT LICENSE, did conduct, manage, maintain, or operate a disposal area without having a license from the Department of Natural Resources; contrary to M.C.L. 324.11512 (1); M.S.A. 13A. 11512 (2),[324.115122] MISDEMEANOR: $1,000.00 fine [see 324.11549].

The right of Patrick Jay Conely to conduct his private operation was well established prior to 1995; **see Bunting v. Mellen, 541 U.S. 1019 (2004); Wilson v. Layne, 526 U.S. 603 (1999) at 526 U.S. 606.**

The Petitioner argues that when the State of Michigan was admitted into the union of the United States under the **Doctrine of Equal Footing** the State of Michigan agreed to comply with all existing laws of the United States and the Constitution of the United States.

The Petitioner argues under the principle of contract in this matter the State of Michigan has an obligation to comply

with the laws and the Constitution of the United States admitted into the union upon the **Doctrine of Equal Footing** has an obligation to abide by the existing laws of the United States. Article 1 § 9, Cl.3, exist and therefore the three State of Michigan Statutes are ex post facto to the Constitution of the United States and therefore are repugnant to the Constitution of the United States.

With with his private domicile and private business in Michigan (Territory), Michigan state in the united States as preserved in the Northwest Ordinance 1787 of the Act of Congress, July 13, 1787, of the Enabling Acts of the Act of Congress, June 15, 1836, 5 U.S. Stat. at Large 49, of the Act of Congress, June 23, 1836, 5 U.S. Stat. at Large 59; of the Michigan Ordinance Submitting alternatives, Laws of 1836, p.57, July 25, 1836; of the Michigan Assent to Condition of "Admission; of the Admission of the State, Act of Congress, January 26, 1837, 5 U.S. State. at Large 144; of Chapter VI. - An Act to admit the State of Michigan into the Union, upon an equal footing with the original States; of the present Constitution of the State of Michigan 1963, Effected January 1, 1964, As Amended to April 1, 1985," See **Tiger vs. Western Investment Co. 221 U.S. 286 (1911); Oklahoma Tax Comm'n., vs. United States, 319 U.S. 598 (1943).**

Petitioner, Patrick Jay Conely, pleads claims sovereign immunity as a federal citizen of the united States."

The judicial code and its legislative history cannot be ignored; See **Ex-parte McCardle, 7 Wall, 506 at 512 (1868).** The code (United States Code) cannot prevail over the statutes at Large; See **Stephan v. United States. 319 U.S. 423 at 426**

(1943); also Warner v. Goltra, 293 U.S. 155 at 156 (1934) code was not authorized by congress to amend existing law.

Where as "that being the case" – maritime law belongs to the seamen only and cannot be claimed by the Master of the ship (gold fringed flag in the court room to establish jurisdiction under the flag) immunity to the Citizen only.

The court in the matter of the **United States v. Welden, 377 U.S. 95 (1964) at 122;**

Alan Barth reviewed the nature of the "legislative trial":

"The legislative trial carries with it sanctions of a severe order. It is, to begin with, unimpeded by any [377 U.S. 122] statute of limitations; an error committed in the 1930s may be judged in the 1950s -- and without any allowance whatever for altered conditions or a changed political climate. Defendants may be subjected to double or triple jeopardy, that is, they may be tried by different committees for the same deed. The punishments meted out are uninhibited by any sort of criminal code. Persons convicted in the courts of Congress may not suffer imprisonment, but they are likely to be subjected, in addition to loss of reputation, to a blacklisting which may effectively deny them any means of gaining a livelihood.
Barth goes on to say:"

"The legislative trial serves three distinct though related purposes: (1) it can be used to punish conduct which is not criminal; (2) it can be used to punish supposedly criminal conduct in the absence of evidence requisite to conviction in a court of law; and (3) it can be used to drive or trap persons suspected of "disloyalty" into committing some collateral crime such as perjury or contempt of Congress, which can then be

subjected to punishment through a judicial proceeding."

"Benjamin V. Cohen has shown why the legislative trial has no place in our system:"

"There is no excuse for congressional committees' acting as "people's courts," following totalitarian patterns."

"Legislative trials, since the trial of Socrates, have had an odious history. Legislative trials combine the functions of prosecutor and judge, and deny to the accused the right to impartial and independent judgment. Legislative trials are subject [377 U.S. 123] to the influence of partisanship, passion and prejudice. Legislative trials are political trials. Let us remember that, in the past, legislative justice has tended to degenerate into mob injustice."

"The legislative "trial" is a phenomenon that Senator Cain once described as a committee "running wild," becoming "victims of a wave of emotion which they created, but over which they had no control."

"Some may see wisdom in this modern kind of "trial by committee," so to speak, with committees and prosecutors competing for victims. But the more I see of the awesome power of government to ruin people, to drive them from public life, to brand them forever as undesirable, the deeper I feel that protective measures are needed. I speak now not of constitutional power, but of the manner in which a statute should be read. I therefore incline to construe the Immunity Act freely to hold that he who runs the gantlet of a committee cannot be "tried" again."

Upon information and belief I, Patrick Jay Conely was tried in a Legislative Court of the State of Michigan and convicted of violating the Legislative Statutes of the State of Michigan, of which are not the laws of the United States pursuant to **28 U.S.C. § 1738**; see **Thomas vs. Washington Gas Light Co., 448 U.S. 706 (1999).**

It is obvious that Michigan Compiled Laws are enacted to administer to the employees, police officers or other non-elected bureaucrats that never leave office, in violation of the Constitutions intent that regular elections be held to weed out oppressive bureaucrats that abuse their privileges. "**All the officers of the government, from the highest to the lowest, are *creatures of the law, and are bound to obey it." United States v. Lee; Kaufman v. Lee*, 106 U.S. 196; 1 S. Ct. 240; 27 L. Ed. 171 (1882)** In this case, the Supreme Court affirms that an officer of the government is the artificial "***person***" created and defined in Statutes. By the very act of defining "persons" by statute, it infers that natural free people that created the legislature or other departments are not embraced by the definition of "person", nor subject to the statute.

The rule in federal cases is that an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed. **See, e.g., Roe v. Wade, 410 U.S. [113,] 125 [(1973)]; [422 U.S. 402] SEC v. Medical Comm. for Human Rights, 404 U.S. 403 (1972); United States v. Munsingwear, Inc., 340 U.S. 36 (1950).**

The "Legal rule" is to be established at **Anderson v. Creighton, 483 U.S. 635 at 639 (1987)** 14th Amendment violation; also **Mitchell v. Forsyth, 472 U.S. 511 at 528 (1985).**

The exercise of judicial power under Art. III of the Constitution depends on the existence of a case or controversy. As the Court noted in **North Carolina v. Rice, 404 U.S. 244, 246 (1971)**, a federal court has neither the power to render advisory opinions nor "to decide questions that cannot affect the rights of litigants in the case before them." Its judgments must resolve "a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." See **Southern Pacific Terminal Co. v. ICC, 219 U.S. 498 at 515 (1911).**

See **United States v. Lee 106 U.S. 196 (1892)** cited; "It is obvious that in our system of jurisprudence, the principle is as applicable to each of the states as it is to the United States, except in those cases where by the Constitution a state [106 U.S. 207] of the Union may be sued in this Court. **Railroad Co. v. Tennessee, 101 U.S. 337; Railroad Company v. Alabama, 101 U.S. 832.**" To establish jurisdiction. The first recognition of the general doctrine by this Court is to be found in the case of **Cohens v. Virginia, 6 Wheat. 264.**

See – **106 U.S. 220** – "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the our system of government, and every man who by accepting office participates in its functions is only the more strongly

bound to submit to that supremacy and to observe the limitations which it imposes upon the exercise of the authority which it gives." law and are bound to obey it. It is the only supreme power in

The petitioner has meet the burden of invoking federal jurisdiction of this Article III court and has meet the burden of proof and persuasion as to the existence of standing. **Lujan v. Defenders of Wildlife, 504 U.S. 555, 561 (1992) (hereinafter Lujan); FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990)** of demonstrating injury in fact and continues to stand in harms way with his personal right and Liberty diminished by the Respondents

These averments alone as raised in his petition for writ of certiorari, petitioner has demonstrated that he has suffered a "concrete and particularized" injury, **Lujan, 504 U.S. at 560**, setting forth"specific facts" to support his claims. See,"**Warth v. Seldin, 422 U.S. at 501**, palpable injury and the presence of a genuine injury.

Theses specific facts were "supported adequately the Order of Circuit Judge Daniel A. Burress at petitioner Appendix at D- 6 no evidence adduced at trial,'" ibid. (quoting **Gladstone, Realtors v. Village of Bellwood, 441 U.S. 91, 115, n. 31 (1979)).** "The affidavits themselves are woefully short on "specific facts," and the vague allegations of injury they do make are undermined by the evidence adduced at trial. To

present, bring forward, offer, introduce. Used particularly with reference to evidence;" No evidence to support the conviction.

"Circuit Judge Daniel A Burress correctly stated No evidence presented at trial relating to November 8, 2001, the date alleged in the Complaint. Not is there a finding as to this date by the trial court."

Petitioner, Patrick Jay Conely, demandant, has a right to place before the (assize (summoned the filing of the petitioner for writ of certiorari) together to try a dispute performing the functions of a jury)) justices of this Supreme Court of the United States all the evidence which Patrick Jay Conely though might tend to establish his right of property and constitutional guarantees under the Constitution and laws of the United States; in view of **Bradstreet v. Thomas, 37 U.S. 12Pet.) 174 (1838)** which the Circuit Court for Livingston ruled upon, No Evidence that it might apply to this court **as the law of the case**, without which it could not do in; The People of the State of Michigan/ The State of Michigan in Error.

This leaves this Honorable court and the justices of the court to decide the actual case in controversy of the three State of Michigan Statutes alleged were misapplied, repugnant to the Constitution and the laws of the United States.

Petitioner alleges a violation of the Sixth Amendment Confrontation Clause provides that, "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be

confronted with the witnesses against him." We have held that this bedrock procedural guarantee applies to both federal and state prosecutions" See **Crawford v. Washington 541 U.S. 36 (2004)**. See original understanding of the Clause. See, e.g., **Lilly, 527 U.S. at 140-143 (BREYER, J., concurring); White, 502 U.S. at 366.**

The valuable legal property right and the right of a hearing to apprise petitioner were violated; hearing inter-alib; see **Preiser v. Newkirk,422 U.S. 395 (1975).**

This harms way suffering adverse consequences as a result of the three State of Michigan Statute on soil in Michigan in the sovereign United States.

Petitioner is adversely affected by the State of Michigan Government an trovention "without a chance of redress in the Counts of the State of Michigan. This action is being repeated because of the three Statutes involved of $1,000.00 a day penalty for violation of the statutes, petitioner is entitle to the basic **elements of Rudimentary due-process at 422 U.S. 403.**

See – **United States v. Lee 106 U.S. 196 (1892) at 106 U.S. 220** – "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy and to observe the limitations which it imposes upon the exercise of the authority which it gives."

See **Alden v. Main, 527 U.S. 706 (1999) at 527 U.S. 731** – "This Constitution, and the Laws of the United States

which shall be made in Pursuance thereof . . . , shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding."

"**U.S. Const., Art. VI.** It is contended that, by virtue of these provisions, where Congress enacts legislation subjecting the States to suit, the legislation by necessity overrides the sovereign immunity of the States."

See **527 U.S. 706 at 527 U.S. 801** – "Nor can it be argued that, because the State of Maine creates its own court system, it has authority to decide what sorts of claims may be entertained there, and thus, in effect, to control the right of action in this case. Maine has created state courts of general jurisdiction; once it has done so, the Supremacy Clause of the Constitution, **Art. VI, cl. 2,** which requires state courts to enforce federal law and state court judges to be bound by it, requires the Maine courts to entertain this federal cause of action. Maine has advanced no "`valid excuse,'" **Howlett v. Rose, 496 U.S. 356, 369 (1990) (quoting Douglas v. New York, N. H. & H. R. Co., 279 U.S. 377, 387-88 (1929))**, for its courts' refusal to hear federal law claims in which Maine is a defendant, and sovereign immunity cannot be that excuse simply because the State is not sovereign with respect to the subject of the claim against it. The Court's insistence that the federal structure bars Congress from making States susceptible to suit in their own courts is, then, plain mistake."

See Withrow v. Larkin, 421 U.S. 35 (1975) a "fair trial in a fair tribunal is a basic requirement of due process." **In re Murchison, 349 U.S. 133, 136 (1955).**This applies to administrative agencies which adjudicate as well as to courts. **Gibson v. Berryhill, [421 U.S. 47] 411 U.S. 564, 579 (1973).** Not only is a biased decisionmaker constitutionally unacceptable, but "our system of law has always endeavored to prevent even the probability of unfairness." **In re Murchison,**

supra at 136; cf. Tumey v. Ohio, 273 U.S. 510, 532 (1927). "In pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable. Among these cases are those in which the adjudicator has a pecuniary interest in the outcome, and in which he has been the target of personal abuse or criticism from the party before him. **Withrow v. Larkin, 421 U.S. 35, 47 (1975).**By removing this source of "possible temptation" **for a judge to rule on the basis of self-interest, Tumey, 273 U. S at 532,** the pledges or promises prohibition furthers the State's "compellin[g] interest in maintaining a judiciary fully capable of performing" its appointed task, **Gregory v. Ashcroft, 501 U.S. 452, 501 U.S. 472 (1991)**: "judging [each] particular controversy fairly on the basis of its own circumstances,"**United States v. Morgan, 313 U.S. 409, 421 (1941).** See O'Neil, "**The Canons in the Courts, supra, at 723** ("What is at stake here is no less than the promise of fairness, impartiality, and ultimately of due process for those whose lives and fortunes depend upon judges being selected by means that are not fully subject to the vagaries of American politics.").

See **Republican Party of Minnesota v. White, 536 U.S. 765 (2002).** "[N]o man is permitted to try cases where he has an interest in the outcome." **In re Murchison, 349 U.S. at 136.**

"[T]he requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice. **In re Murchison, 349 U.S. at 136** "[T]o perform its high function in the best way[,]`justice must satisfy the appearance of justice.'"

Where as this is the case Patrick Jay Conely request the justices of the Supreme Court of the United States judicata this case in actual controversy.

[T]he decision maker' conclusion as to a recipient's eligibility must rest solely on the legal Rules and evidence at the Hearing. [of] course an impartial decision maker is essential.

Petitioner has truly presented a case and controversy between the parties.

Petitioner, Patrick Jay Conely, Citizen herein incorporates by reference **Addendum - A** - the Constitution of the United States of 1787 and the Preamble relying on the cases referenced in the Addendum and says If grand of power to federal government is found, object of invasion of rights of states under **Ninth and Tenth Amendment** must fall; see **United Public Workers v. Mitchell, 330 U.S. 75, 91 L. Ed. 517 (1947);**

> "The fundamental human rights guaranteed by the First, Fifth, Ninth and Tenth Amendments are not absolute, and this Court must balance the extent of the guarantee of freedom against a congressional enactment to protect a democratic society against the supposed evil of political partisanship by employees of the Government." **Pp. 95-96." Joseph v. United States Civil Service Com., 180 App D.C. 281, 554 F2D. 1140.**

Petitioner, is in position to raise questions as to the application of the three State of Michigan Statutes most defined above in this court of last resort; of the alleged injury I have suffered and threatened enforcement, presenting justiciable issues.

Petitioner wherein incorporates the definitions in support of his argument in **Addendum - B -**.

Whereas this is the case Petitioner respectfully requests this Honorable justices of this court grant an injunction to remove the restraints in violation of the "Commerce Clause" in view of **Re. Debs, 158 U.S. 564 (1895); See Addendum - A -**.

Prayer for Relief

Wherefore, Patrick Jay Conely, Petitioner, respectfully request the justices of this Supreme Court of the United States grant State writ of certiorari to clarify the constitutional rights of the petition without undue delay and undue the actual harm that the respondents in their quest for power and political advantages has disadvantaged Patrick Jay Conely, Petitioner, Citizen in the united States.

Petitioner has presented an actual antagon assertion of the Rights by Patrick Jay Conely, Citizen against the State of Michigan/Michigan.

Wherefore, Petitioner request the justices of the Supreme Court of the United States grant his writ of certiorari to settle this actual case in controversy of the three State of Michigan Statutes in question that are repugnant to the Constitution and the positive laws of the united States.

Wherefore, Petitioner, respectfully requests the Honorable justices of the court grant relief pursuant to Rule 33

(g) (iv) of this court additional pages to explain to the justices of this court the importance of the arguments at issue before this court.

Dated: 6-23-06

Patrick Jay Conely
c/o 4961 Walsh Drive
P.O. BOX 361
Brighton, Michigan [48116]

BEFORE ME, the undersigned authority, Patrick Jay Conely, known by me (or satisfactorily proven) whose full appellation is subscribed by the foregoing instrument, personally appeared and acknowledged by me that he executed the same as his free act and deed for the purpose and considerations herein expressed and the capacity stated and the statements contained herein are true and correct by the best of his information, knowledge, and belief.

Subscribed and affirmed before me this 23rd day of June, 2006.

IN WITNESS WHEREOF, I have set my hand and official seal:

Brent M. Dupay
Notary Public
07/28/2008
My Commission Expire

BRENT M. DUPAY
Notary Public, Wayne County, MI
Acting In Livingston Co., MI
My Commission Expires 07/28/2008

APPENDIX -D -
Reproduced and reformatted from document that appears in the court file, no guarantee to exact document because of reformatting by scanning of original document to conform to the paper size of the court

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE
COUNTY OF LIVINGSTON

PEOPLE OF THE STATE OF
MICHIGAN,
Plaintiff,

v Case. No. 02-13106 AR

PATRICK JAY CONELY,
Defendant.

TRUE COPY
DANIEL A. BURRESS
44th CIRCUIT COURT

OPINION and ORDER

Defendant/Appellant Conely was charged in a three count Complaint with violating provisions of the Solid Waste Management Act. Count I. alleged that Conely did

dispose of refuse at a place other than a disposal area licensed under the Solid Waste Management Act contrary to MCL 324.11512(1). Count II alleged that Conely established a disposal area without first obtaining a construction permit from the Department of Environmental Quality, contrary TO MCL 324,11509(1). Count III alleged that Conely did conduct, manage, maintain, or operate a disposal area without having- a license from the Department of EnvironmentalQuality contrary to MCL 324.11512(2). The complaint alleged that all three of these violations occurred on November 8, 2001.

Conely waived his right to a jury trial and a bench trial was held on June 25, 2002.Written closing arguments by the parties were presented to the trial court on or before July 16, 2002. The trial court issued an opinion and order finding Conely guilty on all three counts. Conely was sentenced, to fines of five hundred dollars ($500.00) on

each count.

Conely has appealed that conviction and sentence as of right to this Court.

After hearing oral argument on the appeal of this matter on May 28,2003, this Court directed the parties to submit briefs limited to the date of the offense and venue only.

The prosecution argues that the trial court was aware of Defendant's contention that there was no proof regarding the offense date because defense counsel argued it in his written closing argument to the trial court. In support of the prosecution's position. Appellee cites *People v Less,* 197 Mich App 131; 494 NW2d 797 (1992) which states:

> Factual findings are sufficient as long as it appears that the trial court was aware of the issues in the case and correctly applied the law. The court need not make specific findings of fact regarding each element of the crime. A court's failure to find the facts does not require remand where it is manifest that the court was aware of the factual issue, that it resolved the issue, and that further explication would not facilitate appellate review. (Internal

citations omitted.) *Id* 134, 135.

The People also cite *People v Rand,* 397 Mich 638; 247 NW2d 508 (1976), which states that the a written verdict is not void for uncertainty if the Jury's intent can be deduced by reference to the pleadings, court's charge and the entire record.

Defendant contends that the opinion and order of the trial court does not disclose any finding of fact as to the date of the alleged offenses or that the alleged offenses were committed, in Livingston County. Defendant correctly notes that there was no evidence-presented at trial as to Defendant's activities or the condition of his property on or about November 8, 2001, the date alleged in the Complaint.

Defendant further notes that venue is a necessary portion of the prosecution's case, People v Swift, 188 Mich App 619,470 NW2d 491 (1991); and that venue must be proven beyond a reasonable doubt. *People v Plautz,* 28 Mich *App*

621; 184 NW2d 761 (1970).

MCR 6.403 provides:

When trial by jury has been waived., the court with jurisdiction must proceed with the trial. The court must find the facts specifically, state separately its conclusions of law, and direct entry of the appropriate judgment. The court must state its findings and conclusions of the record or in a written opinion made a part of the record.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, the evidence presented is reviewed in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella,* 424 Mich 221,268- 270,275; 380 NW2d 11 (1985); *People v Vaughn,* 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The trial court must make findings of fact and state separately its conclusions of law, MCR 6.403. Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People* v *Smith.* 211 Mich App 233, 235; 535 NW2d 248 (1995). The trial court's findings of fact are reviewed for clear error. MCR 2.613(C); *People v Hermiz.* 235 Mich App 248,255; 597 NW2d 21 S (1999), affd 462 Mich.7]; 611 NW2d 783 (2000).

The trail court need not make specific findings as regards each element of the crime to comply with the dictates of MCR 6.403; *Legg, supra.* A trial court's **factual** findings are sufficient as long as it appears that the court was aware of the factual issues and correctly applied the law. *Id.* at 134.

"A finding is considered to be clearly erroneous if, after a review of the entire record, the appellate court is left

with a definite and firm conviction that a mistake has been made." People v Gistover, 189 Mich App 44,46; 472 NW2d 27 (1991). The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

There was no evidence presented at trial relating to November 8, 2001, the date alleged in the Complaint. Nor is there a finding as to this date by the trial court. The evidence, viewed in a light most favorable to the prosecution, does not support a conviction for acts occurring November 8, 2001.

Accordingly, the decision of the trial court is REVERSED.

THIS ORDER RESOLVES THE LAST PENDING CLAIM AND CLOSES THE CASE.

Aug. 06, 2003
Date

Daniel A. Burress
Circuit Judge

ADDENDUM - A-

THE DECLARATION OF INDEPENDENCE IN CONGRESS, JULY 4, 1776

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

"When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposedto suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future

security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former systems of government."

THE CONSTITUTION OF THE UNITED STATES PREAMBLE

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Articles

ARTICLE ONE

Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Section 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not

be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

Section 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; **pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.**

ARTICLE THREE

Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

ARTICLE FOUR

Section 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Section 3. New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE SIX

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

ARTICLE SEVEN

The ratification of the Conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth, in witness whereof we have hereunto subscribed our Names,
GEO. WASHINGTON - **President and deputy from Virginia**

New Hampshire
JOHN LANGDON
NICHOLAS GILMAN

Massachusetts
NATHANIEL GORHAM
RUFUS KING

Connecticut
WM SAML JOHNSON
Connecticut
WM SAML JOHNSON
ROGER SHERMAN

New York
ALEXANDER HAMILTON

New Jersey
WIL. LIVINGSTON
DAVID BREARLEY
WM PATERSON
JONA. DAYTON

Pennsylvania
B FRANKLIN
THOMAS MIFFLIN
ROBT MORRIS
GEO CLYMER
THOS FITZSIMONS
JARED INGERSOLL
JAMES WILSON
GOUV. MORRIS

Delaware
GEO READ
GUNNING BEDFORD JUN.
JOHN DICKINSON
RICHARD BASSETT
JACO. BROOM

Maryland
JAMES McHENRY
DAN of ST THO JENIFER
DANL CARROLL

Virginia
JOHN BLAIR
JAMES MADISON JR.

North Carolina
WM BLOUNT
RICHD DOBBS SPAIGHT
HU WILLIAMSON

South Carolina
J. RUTLEDGE
CHARLES COTESWORTH PINCKNEY
CHARLES PINCKNEY
PIERCE BUTLER

Georgia
WILLIAM FEW
ABR BALDWIN
Attest
William Jackson

Amendments

AMENDMENT ONE

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT FOUR

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT FIVE

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

See **Boyd v. United States, 116 U.S. 616 (1886)**

"The 6th section of the act of June 22, 1874, entitled "An act to amend the customs revenue laws," &c., which section authorizes a court of the United States, in revenue cases, on motion of the government attorney, to require the defendant or claimant to produce in court his private books, invoice and papers, or else the allegations of the attorney to be taken as confessed: Held, to be unconstitutional and void a applied to suits for penalties or to establish a forfeiture of the party's goods, as being repugnant to the Fourth and Fifth Amendments of the Constitution."

"Where proceedings were in rem to establish a forfeiture of certain goods alleged to have been fraudulently imported without paying the duties thereon, pursuant to the

12th section of said act: Held, That an order of the court made under said 5th section, requiring the claimants of the goods to produce a certain invoice in court for the inspection of the government attorney, and to be offered in evidence by him, was an unconstitutional exercise of authority, and that the inspection of the invoice by the attorney, and its admission in evidence, were erroneous and unconstitutional proceedings."

"It does not require actual entry upon premises and search for and seizure of papers to constitute an unreasonable search and seizure within the meaning of the Fourth Amendment; a compulsory production of a party's private books and papers to be used against himself or his property in a criminal or penal proceeding, or for a forfeiture, is within the spirit and meaning of the Amendment."

"It is equivalent to a compulsory production of papers to make the nonproduction of them a confession of the allegations which it is pretended they will prove."

"A proceeding to forfeit a person's goods for an offence against the laws, though civil in form, and whether in rem or in personam, is a "criminal case" within the meaning of that part of the Fifth Amendment which declares that no person "shall be compelled, in any criminal case, to be a witness against himself.""

"The seizure or compulsory production of a man's private papers to be used in evidence against him is equivalent to compelling him to be a witness against himself, and, in a prosecution for a crime, penalty or forfeiture, is equally within the prohibition of the Fifth Amendment."

"Both amendments relate to the personal security of the citizen. They nearly run into, and mutually throw light upon, each other. When the thing forbidden in the Fifth Amendment, namely, compelling a man to be a witness against himself, is the object of a search and seizure of his private papers, it is an "unreasonable search and seizure" within the Fourth Amendment." **[116 U.S. 617]**

"Search and seizure of a man' private paper to be used in evidence for the purpose of convicting him of a crime, recovering a penalty, or of forfeiting his property is totally different from the search and seizure of stolen goods, dutiable articles on which the duties have not been paid, and the like, which rightfully belong to the custody of the law."

"The clauses of the Constitution to which it is contended that these laws are repugnant are the Fourth and Fifth Amendments." "The Fourth declares,"

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

"The Fifth Article, amongst other things, declares that no person "shall be compelled in any criminal case to be a witness against himself."" **at 116 U.S. 621.**

"But, in regard to the Fourth Amendment, it is contended that, whatever might have been alleged against the constitutionality of the acts of 1863 and 1867, that of 1874, under which the order in the present case as made, is free from constitutional objection because it does not authorize the search and seizure of books and papers, but only requires the defendant or claimant to produce them. That is so, but it declares that, if he does not produce them, the allegations which it is affirmed they will prove shall be taken as confessed. This is [**116 U.S. 622**] tantamount to compelling their production, for the prosecuting attorney will always be sure to state the evidence expected to be derived from them as strongly as the case will admit of. It is true that certain aggravating incidents of actual search and seizure, such as forcible entry into a man's house and searching amongst his papers, are wanting, and, to this extent, the proceeding under the act of 1874 is a mitigation of that which was authorized by the former acts; but it accomplishes the substantial object of those acts in

forcing from a party evidence against himself. It is our opinion, therefore, that a compulsory production of a man's private papers to establish a criminal charge against him, or to forfeit his property, is within the scope of the Fourth Amendment to the Constitution in all cases in which a search and seizure would be, because it is a material ingredient, and effects the sole object and purpose of search and seizure."

AMENDMENT SIX

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, **and to have the assistance of counsel for his defence.**

AMENDMENT NINE

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT TEN

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT FOURTEEN
July 28, 1868

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United

States and of the State wherein they reside. **No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

"The Constitution of the United States was ordained and established not by the States in their sovereign capacities, but emphatically, as the preamble of the Constitution declares, by "the people of the United States." There can be no doubt that it was competent to the people to invest the general government [14 U.S. 325] with all the powers which they might deem proper and necessary, to extend or restrain these powers according to their own good pleasure, and to give them a paramount and supreme authority. As little doubt can there be that the people had a right to prohibit to the States the exercise of any powers which were, in their judgment, incompatible with the objects of the general compact, to make the powers of the State governments, in given cases, subordinate to those of the nation, or to reserve to themselves those sovereign authorities which they might not choose to delegate to either. The Constitution was not, therefore, necessarily carved out of existing State sovereignties, nor a surrender of powers already existing in State institutions, for the powers of the States depend upon their own Constitutions, and the people of every State had the right to modify and restrain them according to their own views of the policy or principle. On the other hand, it is perfectly clear that the sovereign powers vested in the State governments by their respective Constitutions remained unaltered and unimpaired except so far as they were granted to the Government of the United States."

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in

every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." **See Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304, 1 Wheat. 304 (1816).**

Government of United States is government of the people from whom it emanates; See **M'Culloch v. Maryland, 17 U.S. 316, 4 L. Ed. 579 (1819)** "From these conventions the Constitution derives its whole authority. The government proceeds directly from the people; is "ordained and established" in the name of the people, and is declared to be ordained, in order to form a more perfect union, establish justice, insure domestic tranquillity, and secure [17 U.S. 404] the blessings of liberty to themselves and to their posterity."

"The Constitution was ordained and established by the people of the United States for themselves, for their own government, and not for the government of individual States. Each State established a constitution for itself, and in that constitution provided such limitations and restrictions on the powers of its particular government as its judgment dictated. The people of the United States framed such a government for the United States as they supposed best adapted to their situation, and best calculated to promote their interests. The powers they conferred on this government were to be exercised by itself, and the limitations on power, if expressed in general terms, are naturally and necessarily applicable to the government created by the instrument. They are limitations of power granted in the instrument itself, not of distinct governments framed by different persons and for different purposes." See **Barron v. Mayor & City Council of Baltimore 32 U.S. (7 Pet.) 243, 7 Pet. 243 (1833).**

The Sixth Amendment's Confrontation Clause provides that, "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him." We have held that this bedrock procedural guarantee applies to both federal and state prosecutions. **Pointer v.**

Texas, 380 U.S. 400, 406 (1965). As noted above, Roberts says that an unavailable witness' out-of-court statement may be admitted so long as it has adequate indicia of reliability -- i.e., falls within a "firmly rooted hearsay exception" or bears "particularized guarantees of trustworthiness." **448 U.S. at 66.**

The First Congress responded by including the Confrontation Clause in the proposal that became the Sixth Amendment.

Id. at 77. "The Framers would be astounded to learn that ex parte testimony could be admitted against a criminal defendant because it was elicited by "neutral" government officers. But even if the court's assessment of the officer's motives was accurate, it says nothing about Sylvia's perception of her situation. Only cross-examination could reveal that." **At 541 U.S. 50.**

"Early state decisions shed light upon the original understanding of the common law right. **State v. Webb, 2 N.C. 103 (1794) (per curiam)**, decided a mere three years after the adoption of the Sixth Amendment, held that depositions could be read against an accused only if they were taken in his presence. Rejecting a broader reading of the English authorities, the court held:"[I]t is a rule of the common law, founded on natural justice, that no man shall be prejudiced by evidence which he had not the liberty to cross-examine."

"The historical record also supports a second proposition: that the Framers would not have allowed admission of testimonial [**541 U.S. 54**] statements of a witness who did not appear at trial unless he was unavailable to testify, and the defendant (Patrick Jay Conely was not apprised of the three State of Michigan Statutes challenged and informed of these Statutes before the State of Michigan filed criminal charges against him personally (**violation of the Ex-posto Contract Clause Article 1 § 9, Cl1.**)) had had a prior opportunity for cross-examination. The text of the Sixth Amendment does not suggest any open-ended exceptions from the confrontation requirement to be developed by the courts.

Rather, the "right . . . to be confronted with the witnesses against him," Amdt. 6, is most naturally read as a reference to the right of confrontation at common law, admitting only those exceptions established at the time of the founding. See **Mattox v. United States, 156 U.S. 237, 243 (1895); cf. Houser, 26 Mo. at 433-435.** As the English authorities above reveal, the common law in 1791 conditioned admissibility of an absent witness' examination on unavailability and a prior opportunity to cross-examine. The Sixth Amendment therefore incorporates those limitations. The numerous early state decisions applying the same test confirm that these principles were received as part of the common law in this country." **[541 U.S. 55]**

"Our later cases conform to **Mattox's** holding that prior trial or preliminary hearing, testimony is admissible only if the defendant had an adequate opportunity to cross-examine. See **Mancusi v. Stubbs, 408 U.S. 204, 213-216 (1972); California v. Green, 399 U.S. 149, 165-168 (1970); Pointer v. Texas, 380 U.S. at 406-408; cf. Kirby v. United States, 174 U.S. 47, 55-61 (1899).** Even where the defendant had such an opportunity, we excluded the testimony where the government had not established unavailability of the witness. See **Barber v. Page, 390 U.S. 719, 722-725 (1968); cf. Motes v. United States, 178 U.S. 458, 470-471 (1900).** We similarly excluded accomplice confessions where the defendant had no opportunity to cross-examine. See **Roberts v. Russell, 392 U.S. 293, 294-295 (1968) (per curiam); Bruton v. United States, 391 U.S. 123, 126-128 (1968); Douglas v. Alabama, 380 U.S. 415, 418-420 (1965).** In contrast, we considered reliability factors beyond prior opportunity for cross-examination when the hearsay statement at issue was not testimonial. See **Dutton v. Evans, 400 U.S. at 87-89 (plurality opinion)." [541 U.S. 58]**

"Members of this Court and academics have suggested that we revise our doctrine to reflect more accurately the **original understanding of the Clause. See, e.g., Lilly, 527 U.S. at 140-143 (BREYER, J., concurring); White, 502 U.S. at 366 [541 U.S. 61]** (THOMAS, J., joined by SCALIA, J.,

concurring in part and concurring in judgment); A. Amar, **The Constitution and Criminal Procedure 125-131 (1997);** Friedman, Confrontation: **The Search for Basic Principles, 86 Geo.L.J. 1011 (1998).** They offer two proposals: first, that we apply the Confrontation Clause only to testimonial statements, leaving the remainder to regulation by hearsay law -- thus eliminating the overbreadth referred to above. Second, that we impose an absolute bar to statements that are testimonial, absent a prior opportunity to cross-examine -- thus eliminating the excessive narrowness referred to above."**See Crawford v. Washington, 541 U.S. 36 (2004).**

Constitutional provisions do not change, but their operation extends to new matters, as modes of business and habits of life of people vary with each succeeding generation; See **Re. Debs, 158 U.S.564, 39 L.Ed.1092 (1895) Whereas Patrick Jay Conely reserves the right to petition the government of the United States for an injunction and petition this court that the government of the United States by and through the United States attorney to intervene.**

The court – At – 156 U.S. 570-572

"The bill further set forth that there had become established in the city of Chicago a business conducted under the name of the Union Stock Yards, at which, for many years, immense numbers of livestock from States and Territories beyond the State of Illinois had been received, slaughtered, and converted into food products and distributed to all quarters of the globe, and that all the large centres of population in the United States were in a great degree dependent upon those stockyards for their food supply of that character; that, for the purpose of handling such livestock and the product thereof, the company conducting such business operated certain railroad tracks, and that, in pursuance of the combination and conspiracy aforesaid, the four defendants, officers of the railway union, issued orders directing all the employs handling such railroad tracks to abandon such service."

"To this was added the following:"

"And your orator further alleges that, in pursuance of the like combination and unlawful conspiracy, the said defendants and others combining and conspiring with them for the purpose of still further restraining and preventing the conduct of such business, have, by menaces, threats, and intimidation, prevented the employment of other persons to take the place of the employees quitting the service of said company so operating said Union Stock Yards."

"And your orator further charges that, by reason of said unlawful combination and conspiracy and the acts and doings aforesaid thereunder, the supply of coal and fuel for consumption **[158 U.S. 570]** throughout the different States of the Union and of grain, breadstuffs, vegetables, fruits, meats and other necessaries of life, has been cut off, interrupted, and interfered with, and the market therefor made largely unavailable, and dealers in all of said various products and the consumers thereof have been greatly injured, and trade and commerce therein among the States has been restrained, obstructed, and largely destroyed."

"The bill alleged that the defendants threatened and declared that they would continue to restrain, obstruct, and interfere with interstate commerce, as above set forth, and that they will, if necessary to carry out the said unlawful combination and conspiracy above set forth, tie up and paralyze the operations of every railway in the United States, and the in and industries dependent thereon."

"Following these allegations was a prayer for an injunction." "The bill was verified."

"On presentation of it to the court, an injunction was ordered commanding the defendants and all persons combining and conspiring with them, and all other persons whomsoever, absolutely to desist and refrain from in any way or manner interfering with, hindering, obstructing or stopping any of the business of any of the following named railroads, (specifically naming the various roads named in the bill) as common carriers

of passengers and freight between or among any States of the United States, and from in any way or manner interfering with, hindering, obstructing or stopping any mail trains, express trains or other trains, whether freight or passenger, engaged in interstate commerce, or carrying passengers or freight between or among the States; and from in any manner interfering with, hindering or stopping any trains carrying the mail; and from in any manner interfering with, hindering, obstructing or stopping any engines, cars or rolling stock of any of said companies engaged in interstate commerce, or in connection with the carriage of passengers or freight between or among the States; and from in any manner interfering with, injuring or destroying any of the property of any of said railroads engaged in or for the purpose of, or in connection with, interstate commerce or the carriage of [158 U.S. 571] the mails of the United States or the transportation of passengers or freight between or among the States; and from entering upon the grounds or premises of any of said railroads for the purpose of interfering with, hindering, obstructing, or stopping any of said mail trains, passenger or freight trains engaged in interstate commerce, or in the transportation of passengers or freight between or among the States, or for the purpose of interfering with, injuring, or destroying any of said property so engaged in or used in connection with interstate commerce or the transportation of passengers or property between or among the States; and from injuring or destroying any part of the tracks, roadbed, or road, or permanent structures of said railroads; and from injuring, destroying, or in any way interfering with any of the signals or switches of any of said railroads; and from displacing or extinguishing any of the signals of any of said railroads, and from spiking, locking, or in any manner fastening any of the switches of any of said railroads, and from uncoupling or in any way hampering or obstructing the control by any of said railroads of any of the cars, engines, or parts of trains of any of said railroads engaged in interstate commerce or in the transportation of passengers or freight between or among the

States, or engaged in carrying any of the mails of the United States; and from compelling or inducing or attempting to compel or induce, by threats, intimidation, persuasion, force, or violence, any of the employs of any of said railroads to refuse or fail to perform any of their duties as employees of any of said railroads in connection with the interstate business or commerce of such railroads or the carriage of the United States mail by such railroads, or the transportation of passengers or property between or among the States; and from compelling or inducing or attempting to compel or induce by threats, intimidation, force, or violence any of the employees of any said railroads who are employed by such railroads, and engaged in its service in the conduct of interstate business or in the operation of any of its trains carrying the mail of the United States, or doing interstate business, or the transportation of passengers and freight between and among the States, **[158 U.S. 572]** to leave the service of such railroads; and from preventing any person whatever, by threats, intimidation, force, or violence from entering the service of any of said railroads and doing the work thereof, in the carrying of the mails of the United States or the transportation of passengers and freight between or among the States; and from doing any act whatever in furtherance of any conspiracy or combination to restrain either of said railroad companies or receivers in the free and unhindered control and handling of interstate commerce over the lines of said railroads, and of transportation of persons and freight between and among the States; and from ordering, directing, aiding, assisting, or abetting in any manner whatever any person or persons to commit any or either of the acts aforesaid."

"And it is further ordered that the aforesaid injunction and writ of injunction shall be in force and binding upon such of said defendants as are named in said bill from and after the service upon them severally of said writ by delivering to them severally a copy of said writ or by reading the same to them and the service upon them respectively of the writ of subpoena herein, and shall be binding upon said defendants, whose names

are alleged to be unknown, from and after the service of such writ upon them respectively by the reading of the same to them or by the publication thereof by posting or printing, and after service of subpoena upon any of said defendants named herein shall be binding upon said defendants and upon all other persons whatsoever who are not named herein from and after the time when they shall severally have knowledge of the entry of such order and the existence of said injunction."

The court at 158 U.S. 578 – First. "What are the relations of the general government to interstate commerce and the transportation of the mails? They are those of direct supervision, control, and management. While, under the dual system which prevails with us, the powers of government are distributed between the State and the Nation, and while the latter is properly styled a government of enumerated powers, yet within the limits of such enumeration, it has all the attributes of sovereignty, and, in the exercise of those enumerated powers, acts directly upon the citizen, and not through the intermediate agency of the State."

"The government of the Union, then, is, emphatically and truly a government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit."

"No trace is to be found in the Constitution of an intention to create a dependence of the government of the Union on those of the States for the execution of the great powers assigned to it. Its means are adequate to its ends, and on those means alone was it expected to rely for the accomplishment of its ends. To impose on it the necessity of resorting to means which it cannot control, which another government may furnish or withhold, would render its course precarious, the result of its measures uncertain, and create a dependence on other governments which might disappoint its most important designs and is incompatible with the language of the Constitution."

Chief Justice Marshall in McCulloch v. Maryland, 4 Wheat. 316, 405, 424.

"Both the States and the United States existed before the Constitution. The people, through that instrument, established a more perfect union by substituting a national government, acting, with ample power, directly upon the citizens, instead of the confederate government, which acted with powers, greatly restricted, only upon the States."

Chief Justice Chase in Lane County v. Oregon, 7 Wall. 71, 76.

"We hold it to be an incontrovertible principle that the government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to [158 U.S. 579] it. This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace to that extent."

"This power to enforce its laws and to execute its functions in all places does not derogate from the power of the State to execute its laws at the same time and in the same places. The one does not exclude the other, except where both cannot be executed at the same time. In that case, the words of the Constitution itself show which is to yield." ""**This Constitution, and all laws which shall be made in pursuance thereof, shall be the supreme law of the land.**""

Mr. Justice Bradley in Ex parte Siebold, 100 U.S. 371, 395. See also Schooner Exchange v. McFadden, 7 Cranch 116, 136; Cohens v. Virginia, 6 Wheat. 264, 413; Legal Tender Cases, 12 Wall. 457, GO>555; Tennessee v. Davis, 100 U.S. 57; The Chinese Exclusion Case, 130 U.S. 581; In re Neagle, 135 U.S. 1; Logan v. United States, 144 U.S. 263; Fong Yue Ting v. United States, 149 U.S. 698; In re Quarles, ante, 532.

"Among the powers expressly given to the national government are the control of interstate commerce and the creation and management of a post office system for the nation. **Article I, section 8, of the Constitution** provides that the Congress shall have power . . . Third, to regulate commerce

with foreign nations and among the several States, and with the Indian tribes. . . . Seventh, to establish post offices and post roads."

In the Constitutional Construction and Interpretation, - - Principle of existing Law - - The Best and effect of many of the provisions of the Constitution are best ascertained by bearing in mind what the law was at the time the Constitution and Amendments thereof were adopted and ratified, Ex parte, Wilson, 1885, 5 Ct. 935, 114 U.S. 422, 29 L.Ed. 89, not as reaching out for new guaranties but as securing such as the law recognized, **Mattox vs. U.S., 15 S. Ct. 337, 156 U.S. 243, 30 L.Ed. 409, (1805 Kan.).** The requirement of full faith and credit is to be read and interpreted in the light of well established principles of justice protected by the Constitutional provisions which it was never intended to modify or override, **Bigelow vs. Old Diminion Copper Min., etc., Co., 32 S.Ct. 641, 225 U.S. 111, 56 L. Ed.1009, (Mass, 1912).**

In general - - - The Constitution, establishing a frame of government, declaring fundamental principles, and creating a national sovereignty, is not to be interpreted with the strictness of a code of laws or of a private contract, **Fairbanks vs. U.S. , 21 S.Ct. 648, 181 U.S. 287, 45 L.ed. 709, (Minn. 1901).** Provisions for the Protection of Life, Liberty, and Property - - - The provisions for the protection of life, liberty, and property are to be largely and liberally construed in the favor of the Citizen. **Dorman vs. State , 34 Ala. 216, 283, (1850),** a life construction should be made in favor of persons charged with a crime. **See Ex parte, Lange, 85 U.S. 163 , 18 Wall, 163, 21 l.Ed. 872, (1873).**

ADDENDUM - B -

In criminal law. A charge, **preferred before a magistrate having jurisdiction**, that a person named (or an unknown person) has committed a specified offense, with an offer to prove the fact, to the end that a prosecution may be instituted. It is a technical term, **descriptive of proceedings before a magistrate. Hobbs v. Hill, 157 Mass. 556, 32 N. E. 862; Com. v. Davis, 11 Pick. (Mass.) 436; U. S. v. Collins (D. C.) 79 Fed. 66; State v. Dodge Co., 20 Neb. 595, 31 N. W. 117.**

Competent authority. As applied to courts and public officers, this term **imports jurisdiction and due legal authority** to deal with the particular matter in question. **Mitchel v. U. S., 9 Pet 735, 9 L. Ed. 283; Charles v. Charles, 41 Minn. 201, 42 N. W. 935.**

Competent evidence. That which the very nature of the thing to be proven requires, as the production of a writing where its contents are the subject of inquiry. **1 Greenl. Ev. § 2; Chapman v. McAdams, 1 Lea (Tenn.) 500; Horbach v. State, 43 Tex. 242; Porter v. Valentine, 18 Misc. Rep. 213, 41 N. Y. Supp. 507.**

Competent -witness. One who is legally qualified to be heard to testify in a cause. **Hogan v. Sherman, 5 Mich. 60; People v. Compton, 123 Cal. 403, 56 Pac. 44; Com. v. Mullen, 97 Mass. 545.**

See COMPETENCY. *Party as witness: Affidavit for examination.* *'The office of an affidavit, made by one party to a suit, for the purpose of taking the testimony of the other, is to point out the fact to be proved, and not the evidence of that fact. Within the range of the affidavit, the party is to be examined like any other witness, and it is as competent for him to prove a fact by the admissible declarations of others, as it is for any other witness.

COMPETENCY. In the law of evidence. The presence of those characteristics, or the absence of those disabilities, which render a witness legally fit and qualified to give testimony in a court of justice. The term is also applied, in the same sense, to documents or other written evidence.

SWORN, *pp. of swear.* The officers of government are sworn to a faithful discharge of their duty. - American Dictionary of the English Language, Noah Webster, 1828.

sworn.

See **duly sworn; legally sworn; mainsworn; swear.**

- Ballentine's Law Dictionary with Pronunciations, Third Edition, 1969.

swear. To put a person under oath, that is, to administer an oath. To take an oath, that is, to put one's self under oath. To take God's name in vain; to curse.

"As the word is used in the law of perjury, to swear means to state a fact or facts under the sanctity of an oath or affirmation administered by some duly qualified officer having authority to administer the oath in the particular proceeding or investigation in which the statement of the **affiant** is to be made." **State v Dallagiovanna, 69 Wash 84, 124 P 209.**